



**Instrumentation
Laboratory**

Charles F. Mountain
Director, Business Development
Critical Care Business Unit

July 18, 1994

A. P. Shepherd, Ph.D.
President
AVOX Systems Inc.
15315 Grey Fox Terrace
San Antonio, TX 78255

Dear Dr. Shepherd:

It was good to talk to you last week. I am following up on a few of the items we discussed.

The sales estimate given earlier did not include standalone CO-Oximeters. As we discussed, it would be IL's intention to offer the AVOX technology in a variety of formats (i.e. CO-Oximeter, Oximeter and tHb only) on the complete line of our next generation blood gas and blood gas plus electrolyte analyzers. A revised yearly estimate, including standalone CO-Oximeters is shown below:

Blood Gas + CO-Ox =	200
Blood Gas + Oximeter =	100
Blood Gas + tHb =	200
CO-Oximeters =	<u>300</u>
	800

It would be our plan to release the different modules to the Blood Gas models simultaneously as they would be differentiated mostly by software. We may offer the CO-Oximeter at a decreased price to eliminate the need for the Oximeters, however, I've left both of them in the estimate.

As I mentioned we expect that the royalty on systems, whether a flat rate or percentage, combining the AVOX technology with Blood Gas would be based only upon the incremental value added by your technology (i.e., difference in sales price of systems with and without AVOX). The examples we discussed of currently available combination systems yield the following at list price:

Instrumentation Laboratory Company

A CH-Werfen Company

101 Hartwell Avenue, P.O. Box 8113, Lexington, MA 02173-3180 U.S.A.
Telephone 617-861-4453, Fax 617-862-8964

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- Blood Gas + CO-Ox: ABL 520 - ABL 500 = \$12,600
- Blood Gas + Oximeter: ABL 510 - ABL 500 = \$9,500
- Blood Gas + tHb: CCD 280 - CCD 278 = \$3,500

Additionally, Corning has announced a new family of analyzers with an integrated CO-Ox (see attached advertisement) but I don't have prices yet. Considering this new competition and the recent trends in the marketplace we foresee that when the IL/AVOX systems would be ready the list prices for the modules will decrease by 10% from today's prices and the present discounting rate of 25% for Blood Gas analyzers will also extend to the modules. The majority of systems are expected to be placed on a lease or rental basis.

After further reviewing this situation we are able to increase our proposed flat rate royalty from \$250 to \$300 per system. This increase, as noted on the attached spreadsheet, yields a royalty rate of 5.3% for combination systems.

We look forward to your response to this revised offer and remain hopeful that agreement on the royalty and the rest of the terms can be achieved quickly. We would like to finalize the agreement before we invest significantly more time and money in R&D. I will be at the AACC show until Friday but will be in contact with my office. Looking forward to your response.

Sincerely,



Charles F. Mountain
Director Business Development
Critical Care Business Unit.

cc: R. Benet
Gale Peterson, Esq.

IL/AVOX ROYALTY

TABLE 1

July 18 1994

Combination System	Present L.P. Difference	Estimated At Release			Qty	IL Rev.	Avox Royalty @ \$300/system	AVOX Royalty %
		L.P. Diff	Avg. Sales Price					
Blood Gas + CO-Ox	\$12.6K	\$11.4K	\$8.5K		200	\$1700K	\$60K	3.5%
Blood Gas + OX	\$ 9.5K	\$ 8.6K	\$6.4K		100	\$ 640K	\$30K	4.7%
Blood Gas + tHb	\$ 3.5K	\$ 3.2K	\$2.4K		200	\$ 480K	\$60K	12.5%
Total	--	--	---		500	\$2820K	\$150K	5.3%



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Charles F. Mountain
Director, Business Development
Critical Care Business Unit

August 24, 1994

A. P. Shepherd, Ph.D.
President
AVOX Systems Inc.
15315 Grey Fox Terrace
San Antonio, TX 78255

Dear Pete:

I wanted to follow-up on our phone conversation last week. As agreed, I will send you a cursory business plan within two weeks for incorporation with the final agreement.

Before discussing the royalty proposal I must again state my concerns with making a proposal without seeing a copy of the patent claims. Withholding these during this phase of negotiations is very unusual. Anyway, as we discussed our royalty proposal besides being subject to patent issuance is also contingent upon a review of the claims as well as the other terms and conditions of the final agreement.

As stated in previous correspondence we believe that the royalty should be based upon the value added by the AVOX technology. In the case of adding the technology to a Blood Gas or Blood Gas/Electrolytes analyzer this would be the differential in analyzer sales price with and without the AVOX technology. With a CO-Oximeter it would be the actual sales price. This, of course, is no different than we have discussed previously and you have even put on a spreadsheet.

Therefore, subject to the aforementioned and in the interest of achieving a final contract, IL is willing to offer a royalty of 5% to 6% of the incremental price for systems due to the inclusion of the AVOX technology for an exclusive license in the fields we have defined previously. This royalty would be calculated from those systems sold outright and be paid on all systems whether sold, leased or rented. We would still be open to an equivalent fixed rate royalty if you prefer.

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We hope that this substantial increase in the royalty offer will allow you to start drafting an agreement and allow us to proceed to the next step in our discussions. I look forward to your response and please don't hesitate to give me a call if you have any questions. My best to you and John for your trip to Milan.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Mountain", with a stylized, flowing script.

Charles F. Mountain
Director Business Development,
Critical Care Business Unit

cc: R. Benet
G. Peterson